28 August 2007

Mr M. Roberts
Executive Officer - Electoral Matters Committee
Parliament House
Spring Street
Melbourne Vic 3000

Dear Mr Roberts

The Victorian Electoral Commission (VEC) has received this afternoon, a copy of a submission to the Electoral Matters Committee from Mr Anthony van der Craats.

The VEC has previously provided additional information for the committee’s information and consideration in response to other submissions for the current inquiry.

Contrary to Mr van der Craats’ assertions, the VEC believes that all election officials did their best and that the election was conducted with integrity and transparency.

I enclose additional information for the committee’s consideration in relation to Mr van der Craats’ submission.

This correspondence is being emailed prior to the Wednesday hearings of the Committee.

Yours sincerely

Steve Tully
Electoral Commissioner
1. The VEC is fully aware of the need for transparency in election processes. All counting is conducted in the presence of scrutineers who are provided with information to fulfil their function at each venue. In the interests of transparency, the VEC responded as far as possible to Mr van der Craats’ numerous and ever changing requests. The VEC found that Mr van der Craats’ requests became more unreasonable and found that it could no longer respond to such requests at a critical time in the election. In response to the VEC’s refusal to immediately respond to Mr van der Craats’ demands, he widely distributed privileged information that had the potential to interfere with the communication of election night results. Consequently, the VEC was no longer able to support his requests.

In relation to the particular information Mr van der Craats believes should be made available.

1.1 Daily statistical information related to the number of early and postal votes issued.

1.2 Statistical information related to the ballot postal papers returned per electorate prior to the final tabulation and counting of the ballot.

To the best of the VEC’s knowledge Mr van der Craats is the only individual who has such a requirement. He appears unable to grasp the fact that many postal votes issued either do not come back in time to be counted or do not come back at all. All returned postal votes were packaged and returned to Election Managers from the central processing centre, with paper work that included the number of postal votes included in each delivery. The reconciliation forms were made available to scrutineers at each of the postal vote counts conducted locally in election offices.

1.3 Copies of polling place statistical returns including the number of ordinary, section and absentee ballot papers issued, prior to the data entry and calculation of results.

There would be significant practical implications of providing this information on voting centre basis prior to the calculation of the results for future elections. This level of detail is not currently captured electronically from around 1700 voting centres. To the best of the VEC’s knowledge Mr van der Craats is the only individual who has such a requirement.

1.4 Copies of all electronic data files, including data-files of voter preferences used in preliminary and final counts.

Copies of electronic data files for final counts were made available and were provided to interested parties on request. See point 3 for more detail.
The current legislation does not stipulate any requirements in relation to reporting outside of the Report to Parliament which in itself is not prescriptive about the contents.

The VEC, however, has always acted in good faith and provides a tally room on election night and provides progressive updates on its website and to the media. The VEC also conducts two candidate preferred counts on election night. These activities are additional to the requirements of the legislation.

The VEC is often dealing with ad-hoc requests for data and information, and the Committee may wish to consider prescribing more detail in regard to the VEC's reporting obligations.

2. The VEC’s Report to Parliament clearly details Upper House and Lower House counts. There are always differences in the total number of votes for each of the Houses given the imperfections of manual counting and the fact that electors can and sometimes only return one ballot paper.

The VEC has compared the total votes for each Region with the total votes for each District within that Region and found that the differences were within acceptable tolerances. Refer table page 81 of the VEC’s Report to Parliament.

3. Item 3 refers to Mr van der Craats’ FOI request and he has included some of the documents in relation to his request. The VEC believes that it has more than fulfilled its FOI requirements and notes that Mr van der Craats declined to proceed with an application to VCAT.

The recounts that were conducted for the 3 regions were new counts and superseded all previous counts. As a consequence there was movement of ballot papers between candidates, to and from informal, and to and from “above the line”. The recounts were conducted under scrutiny and whilst Mr van der Craats may not have been there, all scrutineers reported that they were satisfied with the process prior to the final calculation of the result and declaration of the poll.

4. Mr van der Craats chooses to deliberately misinterpret the fact that no access to electronic votes occurred before the close of voting at 6.00 pm on election night. The VEC has advised Mr van der Craats on a number of occasions that no access had taken place. The email from a VEC staff member that Mr van der Craats mentions related to the data entry of results at the election night trial (conducted with dummy data) on the Thursday night before election day.

Daily reconciliation of the number of electronic votes issued at each E-Centre enabled the VEC to estimate how many electronic votes had been issued overall. Access to the electronic ballot papers required 3 authorised personnel coming together with special keys – this did not occur until late on election night.

5. The recount provisions of the current legislation were tested in the 2006 election and appeared to work satisfactorily.
6. The enrolment provisions relating to silent electors ensures that the enrolled address of such electors is not displayed on public rolls. Electors with suppressed addresses are subject to enrolment review and are provided with ballot material in postal ballots. Mr van der Craats has taken issue with the fact that the VEC forwarded a comprehensive response to his FOI request to his nominated postal address, which he subsequently stated that he failed to maintain. Accordingly, the VEC does not believe any changes to roll review and correspondence with electors with suppressed addresses needs review.

7. The VEC does not have any issue with the State Ombudsman being given the right to review administrative procedures relating to the VEC.

8. Appears to be outside current terms of reference.

9. The issue of a single Australian Electoral Authority raises its head from time to time and has been the subject of a Commonwealth Joint Standing Committee on Electoral Matters report. Electoral authorities work together to avoid duplication and redundancy of effort but this topic is probably the subject of a much larger debate including the role and need for State Governments.

10. Appears to be outside current terms of reference.

11. Appears to be outside current terms of reference.

12. The current legislation provides a clear process for filling casual vacancies that may arise in the Legislative Council. Any change to this arrangement is clearly one for the Parliament and would require an amendment to the Constitution Act. The VEC conducts countbacks for multi-member Local Government elections and has the system to provide the facility should Parliament determine that it wants to move in that direction.

13. This would require legislative change and is clearly a matter for the Parliament. However, the Committee may note that where elections for different levels of Government have occurred on the same day, it has caused significant elector confusion. In every level of Government in every jurisdiction in Australia, there are by-elections to fill single vacancies.

14. There are a number of proportional representation vote counting systems operating in the world and Victorian legislation prescribes a model which the VEC follows. The VEC’s computer count application has been certified as correctly following the requirements of the current legislation by an independent auditor.